

## PATENT

Atty. Dkt. No. SEDN/PRED144  
Serial No. 09/928,493**REMARKS**

This response is intended as a full and complete response to the Final Office Action mailed June 22, 2005.

Claims 1-12, 14-33, 35-44, 46-57 are pending. Claims 1, 4, 5, 10-12, 17, 19, 20, 22, 25, 26, 31-33, 35, 38, 39, 42-44, 46, 50, and 55-57 are amended. Claims 13, 34, 45, and 58 and are cancelled without prejudice or disclaimer. The amendments contain no new matter and are fully supported by Applicants' original specification, including original claims and drawings, such as pages 17-18.

In view of the foregoing amendments and the following discussion, Applicants believe that all of the claims are allowable. It is to be understood that Applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant responsive amendment.

The Office Action rejected claims 1-58 under 35 U.S.C. §102(b) as being unpatentable over U.S. Patent No. 6,029,195 to Herz ("Herz").

A *prima facie* case of anticipation under §102 requires that the reference teach each and every element of the claims, as arranged in the claims. Herz fails to teach each and every element of the claims, because Herz fails to teach, for example, the claimed set top box that accesses a collection of data reflecting cumulative activities, including viewing interactive television programming. Therefore, the Office Action failed to establish a *prima facie* case of anticipation under §102.

Claim 1 recites, *inter alia*, "accessing, by a set top box, a first collection of data that reflects (i) cumulative activities in which other users have participated, (ii) conditions surrounding such other users' cumulative activities, and (iii) patterns of behavior exhibited by such other users through their participation in such cumulative activities, the activities including viewing interactive television programming". Herz fails to disclose the claimed set top box that accesses a collection of data reflecting cumulative activities, including viewing interactive television programming. By contrast, Herz relates to customized electronic identification of desirable objects, such as news articles by personal computers (PCs) in an electronic media system. (Herz, abstract,

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col. 32 line 60 to col. 33 line 8). PCs are not the same as set top boxes. Furthermore, the section of Herz cited in the Office Action, (Herz, col. 90, lines 13-22), is not related the claimed set top box that accesses a collection of data reflecting cumulative activities, including viewing interactive television programming. Instead, Herz discloses that users are matched according to common interests, such as a common interest in a popular program on television and, then, divided into sub-communities based on the common interest. (Herz, col. 90, lines 9-32). This is not the same as the claimed invention, because it is matching interests, not collecting data reflecting cumulative activities, including viewing interactive television programming, as claimed. In addition, it is not being performed by a set top box, but by a system including personal computers. (Herz, col. 32 line 60 to col. 33 line 8). Herz is directed towards PCs, Internet communities and web surfing, not set top boxes and interactive television, as claimed. Thus, Herz fails to teach each and every element of claim 1 and, therefore, claim 1 is patentable over Herz under §102.

Claim 13 is cancelled.

Claims 2-12, and 14-16 depend, directly or indirectly, from claim 1 and, thus, inherit the patentable subject matter of claim 1, while adding additional elements. Therefore, claims 2-16 are also patentable over Herz under §102.

Claims 17 recites, *inter alia*, "identifying, by a set top box, activities in which the user participates during the period of engagement, and conditions surrounding each such activity, the activities including viewing interactive television programming". For the same reasons given above with respect to claim 1, claim 17 is also patentable over Herz under §102.

Claims 18-21 depend, directly or indirectly, from claim 17 and, thus, inherit the patentable subject matter of claim 17, while adding additional elements. Therefore, claims 18-21 are also patentable over Herz under §102.

Claim 22 recites, *inter alia*, "accessing, by a set top box, a first collection of data that reflects (i) cumulative activities in which other users have participated, (ii) conditions surrounding such other users' cumulative activities, and (iii) preferences exhibited by such other users through their participation in such cumulative activities, the activities including viewing interactive television programming". For the same

reasons given above with respect to claim 1, claim 22 is also patentable over Herz under §102.

Claim 34 is cancelled.

Claims 23-33 depend, directly or indirectly, from claim 22 and, thus, inherit the patentable subject matter of claim 22, while adding additional elements. Therefore, claims 23-33 are also patentable over Herz under §102.

Claim 35 recites, *inter alia*, "accessing, by a set top box, a first collection of data that reflects (i) cumulative activities in which other users have participated, (ii) conditions surrounding such other users' cumulative activities, and (iii) patterns of behavior exhibited by such other users through their participation in such cumulative activities, the activities including viewing interactive television programming". For the same reasons given above with respect to claim 1, claim 35 is also patentable over Herz under §102.

Claims 36-44 depend, directly or indirectly, from claim 35 and, thus, inherit the patentable subject matter of claim 35, while adding additional elements. Therefore, claims 36-44 are also patentable over Herz under §102.

Claim 46 recites, *inter alia*, "means for accessing a first collection of data that reflects (i) cumulative activities in which other users have participated, (ii) conditions surrounding such other users' cumulative activities, and (iii) patterns of behavior exhibited by such other users through their participation in such cumulative activities, the activities including viewing interactive television programming" and "a set top box including a content delivery service and a user monitor, the set top box enabling communication between the current user and a head end, the user monitor including the means for identifying, the means for accessing, the means for comparing, and the means for attributing". For the same reasons given above with respect to claim 1, claim 46 is also patentable over Herz under §102.

Claims 47-57 depend, directly or indirectly, from claim 46 and, thus, inherit the patentable subject matter of claim 46, while adding additional elements. Therefore, claims 47-57 are also patentable over Herz under §102.

Claim 58 is cancelled.

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Serial No. 09/928,493**CONCLUSION**

Thus, Applicants respectfully submit that all of the claims are allowable. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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